

REMARKS/ARGUMENTS

Claims 2-15 were pending in the application.

The examiner has acknowledged that claims 7 and 8 would be allowable if rewritten in independent form. Claims 7 and 8 have, therefore, been amended accordingly.

Claims 2, 4-6 and 9-15 have been rejected under 35 U.S.C. §103 as obvious over Bommart in view of Stockley et al. Claim 3 has been rejected under 35 U.S.C. §103 as obvious over Bommart in view of Stockley et al. and further in view of Hargraves. The rejections are respectfully traversed.

Stockley et al. teach the construction of a package for allowing red meat to be preserved during storage and shipping by minimizing its exposure to oxygen and, when ready for sale, to "bloom" by providing for rapid exposure to oxygen. The field of meat preservation and blooming is highly remote from that of aluminothermic or thermite reactions. One having skill in the art of thermite reactions in crucibles at elevated temperatures would not look to the art of meat preservation in flexible transparent film.

Even if there was some incentive to look to the art of meat preservation when dealing with thermite reactions, it is respectfully submitted that consideration of Bommart in view of Stockley et al. would not render applicants' invention obvious for the following reasons.

Stockley et al. are not concerned with the use of a filter or preventing the travel of particles out of a container. In fact the term "filter" does not appear in Stockley et al.'s disclosure. Nor is any synonym for a filter to be found in Stockley et al.

Stockley et al. disclose two embodiments of their invention. In the first, shown in Figs. 1-7, both the outer impermeable film and inner permeable film are bonded to a flange surrounding the meat tray. Once the outer impermeable film is removed from Stockley et al.'s package to allow oxygen to enter, the red meat must still be protected from handling. Stockley et al., therefore, provide a permeable film under the impermeable film through which oxygen may enter or trapped gases may exit. In the first embodiment of the invention, the permeable film enables oxygen to reach the meat in the package. However, in order to obtain a greater "rush" of oxygen into the package when the outer impermeable film is removed, Stockley et al. disclose the second embodiment.

Stockley et al.'s element 81 in the second embodiment, to which the examiner refers, is provided, not for filtering particles from a gaseous fixture, but as a porous spacer between Stockley et al.'s permeable cover and flange for allowing a rapid inrush of oxygen into a package of red meat when an outer impermeable film wrap is removed from the package. Stockley et al. are concerned with promoting the entry of oxygen into a package from the outside environment whereas applicants' filter is for preventing particles from exiting a crucible to the ambient environment with the gases

developed in a thermite reaction. Stockley et al. are unconcerned with the removal of particles from the gases which enter and exit a package of red meat.

Stockley et al.'s element 81 is a gasket not a filter. Moreover, Stockley et al. disclose that the desired function of permitting rapid inrush of oxygen can be accomplished by other means, none of which is a filter.

Gasket 81 may be perforated or porous but preferably has a permeability allowing for gas diffusion into the package equivalent to a package having a permeable film having an oxygen transmission rate of greater than about 100,000 cc/m.sup.2 /24 hr. 1 atm. 73.degree. F. Furthermore, as an alternative, a smaller object which is porous, perforated, or has at least one channel defined therethrough may be contained between and sealed to permeable film 88 and inner flange portion 80 without being a gasket, such as the segment described above. That is, one or more of such highly transmissible objects may be contained within that seal in order to allow for a release of any contained low oxygen gases and a rapid introduction of oxygen into the tray cavity upon removal of the impermeable film.

Stockley et al. col. 8, lines 4-13 (emphasis added).

Moreover, Stockley et al.'s element 81 is sealed to both the flange 80 and impermeable film 88. Applicants' crucible lid can be opened and closed while the filter is in place without damage. Stockley et al.'s package must be torn open as the element 81 is sealed to both the permeable film and the flange. That is, once Stockley et al.'s element is assembled to the package, the package cannot be opened without destroying it. Applicants' lid can be lifted off of the crucible with the filter in place thereby

exposing the chamber and replaced to close the chamber while the lid, filter and crucible remain intact.

In order to more clearly distinguish from Stockley et al.'s gasket, independent claims 12 and 15 have been amended to recite, "said filter passing gases but substantially blocking solid particles developed in said thermite reaction. . ." Support for this amendment is found at paragraph [0063] of the specification.

For the foregoing reasons, applicants respectfully submit that independent claim 12 is now patentable over Bommart in view of Stockley et al.

Claims 2-6, 9-11, 13 and 14 depend from claim 12 and are believed to be patentable for the reasons advanced with respect to claim 12.

In order to even more readily emphasize the differences between applicants' invention and the combination of Bommart and Stockley et al., a new claim 16 has been added which depends from claim 12 and further recites:

said filter being fixed to one of said lid and said crucible and separable from the other of said lid and said crucible upon lifting of said lid away from said crucible for opening said chamber, said lid having sufficient weight to be able, solely under the force of gravity, to prevent dislodgement of said cover by gas pressure from said thermite reaction.

Support for the filter "being fixed to one of said lid and said crucible" is found at paragraph [0062] of the specification.

Support for "said lid having sufficient weight to be able, solely under the force of gravity, to prevent dislodgement of said

cover by gas pressure from said thermite reaction" is found at paragraph [0022] of the specification. This feature was included in former claim 14, which has now been cancelled.

Stockley et al. are unconcerned with pressures greater than atmospheric pressure such as the high pressures developed in a thermite reaction. The inrush of oxygen which Stockley et al. seek is from the oxygen in the ambient air. Hence the feature of being able to filter particles from a gas under the high pressures developed in the course of a thermite reaction while maintaining a filter in place by gravity is not disclosed in any of the cited references.

For the foregoing reasons, claims 15 and 16 are believed to be patentable over Bommart in view of Stockley et al.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance. Early and favorable action is earnestly solicited.

An unpaid fee required to keep this case alive may be charged to deposit account 06-0735.

Respectfully Submitted,

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